

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

DAVID RAY EVANS

PLAINTIFF

v.

No. 07-2040

JUDGE J. MICHAEL FITZHUGH,  
Circuit Judge; CLAIRE LOUISE  
BORENGASSER, Senior Deputy  
Prosecutor and UNITED STATES  
MAGISTRATE JUDGE JAMES R. MARSCHEWSKI

DEFENDANTS

**ORDER**

Now on this 31st day of August 2009, there comes on for consideration the report and recommendation filed herein on August 11, 2009, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 13). The parties have not filed any objections to the report and recommendation.

The court has reviewed this case and, being well and sufficiently advised, finds as follows: The report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, Plaintiff's motion for leave to appeal IFP (Doc. 11) is DENIED. See 28 U.S.C. § 1915(a)(3). Plaintiff may renew his motion for leave to appeal IFP with the Court of Appeals for the Eighth Circuit. See Fed. R. App. P. 24(a). Further, the U.S. District Clerk is directed to collect the \$455 filing fee pursuant to the terms of the Prison Litigation Reform Act.

IT IS SO ORDERED.

/s/ Robert T. Dawson  
Honorable Robert T. Dawson  
United States District Judge